UNITED STATES OF AMERICA

IN THE

Supreme Court of the United States

OCTOBER TERM, A. D. 1948.

No. 435

INLAND STEEL COMPANY,
A CORPORATION,
Petitioner,

vs.

NATIONAL LABOR RELATIONS BOARD,
Respondent.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT.

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TABLE OF CONTENTS.

Table of Cases.

Other Citations.

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To the Honorable, the Chief Justice of the United States and the Associate Justices of the Supreme Court of the United States:

Petitioner prays that a writ of certiorari be issued to review the judgment of the United States Court of Appeals for the Seventh Circuit enforcing an order of the National Labor Relations Board (herein referred to as the Board) issued against petitioner.

OPINION BELOW.

The opinion of the Court of Appeals is not yet reported. It is printed at pages 406 to 440 of the record.

JURISDICTION.

The judgment of the Court of Appeals was entered on September 23, 1948 (R. 441). The jurisdiction of this Court is invoked under Section 1254 of the Judicial Code, Title 28, United States Code, Section 1254, and Section 10(e) of the National Labor Relations Act (hereinafter referred to as the Act), 61 Stat. 146, 29 U. S. Code, Sec. 160(e).

STATUTE INVOLVED.

The statute involved is the National Labor Relations Act, 49 Stat. 449, as amended by the Labor Management Relations Act, 1947, Act of June 23, 1947, 61 Stat. 136, 29 U. S. Code, Sec. 151, *et seq.* The directly pertinent provisions of the Act as amended are set forth below:

"Sec. 8 (a). It shall be an unfair labor practice for an employer—

* * * * *

"(5) to refuse to bargain collectively with the representatives of his employees subject to the provisions of Sec. 9 (a).

* * * * *

"(b) It shall be an unfair labor practice for a labor organization or its agents—

* * * * *

"(3) to refuse to bargain collectively with an employer, provided it is the representative of his employees subject to the provisions of Sec. 9 (a).

"Sec. 9 (a). Representatives designated or selected for the purposes of collective bargaining by the major-

ity of the employees in a unit appropriate for such purpose, shall be the exclusive representatives of all the employees in such unit for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, or other conditions of employment * * *.

"(b) The Board shall decide in each case whether, in order to assure to employees the fullest freedom in exercising the rights guaranteed by this Act, the unit appropriate for the purposes of collective bargaining shall be the employer unit, craft unit, plant unit, or subdivision thereof * * *."

SUMMARY STATEMENT OF MATTERS INVOLVED.

Petitioner is a Delaware corporation engaged in the manufacture, sale and distribution of steel and steel products through numerous operating divisions and subsidiaries, employing a total of over 19,000 employees (R. 355). Among these are plants at Indiana Harbor, Indiana, and Chicago Heights, Illinois, where the present issue arose.

At the time of the hearing before the Board, petitioner and its subsidiaries had recognized 23 different labor organizations as collective bargaining agents for certain of these employees, in 24 different units, each of which had been found by the Board or agreed by the parties to be a unit appropriate for the purposes of collective bargaining. The number of employees included in such units ranged from 8 (at a plant in Kansas City, Missouri) to 10,169 (at the plants in Indiana Harbor, Indiana, and Chicago Heights, Illinois) (R. 221, 332-341).

In 1936 petitioner established a company-wide retirement and pension plan which covered all employees of its operating divisions and subsidiaries earning over $250.00 per month. In 1943 this plan was extended to cover all em-

ployees regardless of the amount of their earnings. In 1945 a pension trust, also company-wide, was added to equalize the retirement benefits available to employees whose principal period of service antedated the establishment of the original and extended plan, and who therefore were precluded from obtaining a normal measure of retirement benefits thereunder (R. 219, 220, 342-344). That plan, like industrial retirement annuity plans throughout the United States (R. 345, 349, 350, 356, 357), provided for retirement at a fixed retirement age (R. 228, 238, 239). During the war emergency such retirement was temporarily suspended, but was resumed in 1945 and 1946, and all employees who had reached retirement age had been retired by April 1946 (R. 345-347). Upon resumption of retirements under the plan the union representing the bargaining unit at petitioner's Indiana Harbor and Chicago Heights plants (herein referred to as the Union) made a demand upon petitioner to bargain collectively thereon. Petitioner refused to enter into discussion on the subject, and advised the Union of its position that it was under no duty to bargain concerning retirement and pension plans (R. 221, 222). The Union thereupon filed charges with the Board (R. 139, 140), and the Board issued its complaint against petitioner herein (R. 141-144), alleging that petitioner by establishing the pension trust referred to above without consulting with the Union and by failing and refusing to negotiate with the Union concerning the retirement of employees under its retirement and pension plan had engaged in unfair labor practices within the meaning of Section 8 (5) of the Act (now Sec. 8 (a) (5) of the Act, as amended).

The evidence before the Board was presented almost entirely by stipulation, and at no time has there been any disputed material issue of fact in the case. The Board on April 12, 1948, issued its decision and order (R. 56-75), holding that petitioner had engaged in unfair labor prac-

tices as charged, and ordering petitioner, *inter alia*, to bargain collectively with respect to its pension and retirement policies with the Union as the exclusive representative of all of its employees in the aforesaid appropriate unit. One member of the Board dissented (R. 76-78).

On petition to review and set aside the order of the Board, the Court of Appeals held that, insofar as it required the petitioner to bargain with respect to retirement and pension matters, the order of the Board was valid, and ordered that it be enforced, basing its decision on the ground that the language of the Act which defines the scope of the statutory duty to bargain so clearly includes a retirement and pension plan as to leave little, if any, room for construction.

QUESTION PRESENTED.

Does the statutory obligation to bargain collectively under the National Labor Relations Act apply to petitioner's retirement and pension plan?

ASSIGNMENTS OF ERROR.

The Court of Appeals erred:

1. In enforcing the order of the Board.

2. In refusing to set aside the order of the Board.

3. In holding that the language employed by Congress in establishing the statutory requirement of collective bargaining, considered in connection with the purpose of the Act, so clearly includes a retirement and pension plan as to leave little if any room for construction.

4. In holding that petitioner's retirement and pension plan is a condition of employment, as that term is used in the Act.

5. In holding that a pension paid under petitioner's

retirement and pension plan is a part of an employee's wages, as that term is used in the Act.

6. In holding that the legislative history of the Act does not support a conclusion contrary to the foregoing.

REASONS FOR GRANTING THE WRIT.

I.

This Petition Presents a Question of Great Public Importance Which Has Not Been But Should Be Authoritatively Determined by This Court.

1.

It is the view both of the Board and of the court below that this is a case of first impression.

Thus the findings and conclusions of the Board's Trial Examiner, adopted by the Board, included the following (R. 88, 89):

> "* * * over the years during which the Act has been administered, the subjects which more commonly are matters of concern between employers and their employees, have been held to fall within or without the scope of collective bargaining. A painstaking examination of the authorities fails to disclose any consideration of the issue here involved."

Similarly, the court below, in discussing the opinions of this Court in *J. I. Case Co.* v. *Labor Board*, 321 U. S. 332, and *United States* v. *Mine Workers*, 330 U. S. 258, concluded that:

> "* * * the question here presented was not before the court and we do not regard either of these cases as an expression of the view of the Supreme Court upon the instant question." (R. 419.)

Although it is petitioner's position that the instant case is ruled by *J. I. Case Co.* v. *Labor Board*, 321 U. S. 332,

and *H. J. Heinz Co.* v. *Labor Board,* 311 U. S. 514 (see *infra,* pp. 12, 16), the precise issue has never before been directly presented, and we respectfully submit that in the public interest it should be now conclusively settled by this Court.

2.

Industrial retirement and pension plans have been in existence for a great many years in this country, many of them antedating the passage of the Act. They represent an investment or commitment on the part of employers totaling several billions of dollars.

As of 1932, pension plans of the *noncontributory* type covered 3,337,000 employees in this country at a normal level of employment (R. 364). Based upon this figure we may conservatively assume the present existence in the United States of noncontributory plans covering at least 3,000,000 employees. The investment cost of the noncontributory pension trust portion of petitioner's pension plan is $1,216.40 per employee covered (R. 327, 328). Applying this cost figure to the estimated 3,000,000 employees covered, the investment in such noncontributory plans would today total $3,655,200,000.

The annual cost to petitioner of the *contributory* portion of its pension plan is a minimum of $159.17 per employee (R. 327, 328). In 1945 the seven largest insurance companies in this country had in force 1,500 contributory plans covering 2,000,000 employees (R. 350). If we assume that all existing plans of this character cover 3,000,000 employees and that the cost per employee is the same as the minimum figure required by the petitioner's plan, the annual contribution by employers to such plans would be $477,510,000.

The magnitude of the sums noted—a charge upon

employers of over three and a half billion dollars on account of noncontributory plans and a cost to employers of nearly half a billion dollars annually on account of contributory plans—indicates the great public importance of the issue here presented.

3.

In structure, these industrial retirement and pension plans are based upon two underlying principles: First, they are company-wide (R. 343, 348, 349) and second, they apply with relative uniformity to all employees (R. 343, 345). Tests of breadth of coverage and uniformity are applied by the Bureau of Internal Revenue in determining whether any such plan will be approved under the provisions of Sections 23(p) and 165(a) of the Internal Revenue Code. U. S. Code, Title 26, Section 23(p), 165(a); cf. R. 328. The requirement of breadth of coverage may likewise determine whether such a plan could exist at all. Thus, the cost of a retirement annuity equal to that provided under the contributory portion of petitioner's plan would be increased by sixty percent where the unit or group of employees covered numbered less than fifty (R. 349).

Under the Act bargaining units are set up without regard to the scope of retirement and pension plans. The applicable statutory provisions as administered by the Board since the Act was passed have in hundreds of cases produced a multiplicity of bargaining units in a single company, particularly in large industrial concerns, as distinguished from single company-wide units. In the case of petitioner, for example, they produced 24 units, 7 by Board certification and 17 by agreement between petitioner and the respective bargaining representatives (R. 332-341). Others of petitioner's employees not as yet

so organized may well be organized in the future in still other and additional collective bargaining units. Many of such units are of small size. Ten of the 24 units among petitioner's employees cover less than 100 persons (R. 334-341). The recent amendments of Section 9(b) of the Act will tend to produce a greater multiplicity of small units in a given company rather than the reverse.

The order of the Board, enforced by the decree of the court below, requires petitioner upon request to bargain collectively with the Union as the exclusive representative of all its employees in the bargaining unit in question with respect to its pension and retirement policies. Petitioner's pension and retirement policies are embodied in its retirement and pension plan. Such policies and the plan which embodies them are, and have been since the plan was instituted in 1936, company-wide in scope. The Board's order would thus require petitioner to bargain with the Union concerning matters lying beyond the unit which it represents—a result clearly unlawful, since the bargain made with that Union would bind the petitioner to impose it on employees in other units having other bargaining representatives.

If it be argued that the Board's order requires the petitioner to bargain concerning retirement and pension policies applicable solely to the employees in the unit represented by the Union, then the effect of the decision will be to destroy the petitioner's company-wide plan, and all existing plans in this country which similarly extend beyond a single bargaining unit. A result so drastic, in view of the other considerations herein presented, would appear to warrant the exercise of this Court's discretion to grant the present petition.

4.

The collective bargaining requirements of the Act apply to labor organizations as well as to employers, and these have, in many cases, resulted in a multiplicity of units represented for bargaining purposes by a single union. At the same time there are presently in existence various retirement and pension plans, established at the instance of particular labor organizations, which are *union-wide* in scope. An essential characteristic of such plans is that they must be uniform in their union-wide application, and not subject to variation from unit to unit as the result of collective bargaining. An example of such a plan is that established at the instance of the United Mine Workers. Cf. *United States* v. *Mine Workers,* 330 U. S. 258. This is a union-wide plan applying uniformly to employees engaged in coal-mining who are members of the United Mine Workers. These employees are organized in numerous separate collective bargaining units. In every case where the Board has considered the question of an appropriate collective bargaining unit for employees represented by this labor organization it has established either a single company unit or a smaller unit. A similar union-wide plan has been established at the instance of the International Brotherhood of Electrical Workers. Cf. U. S. Dept. of Labor, Bureau of Labor Statistics, *Monthly Labor Review,* Sept., 1948, pages 229 *et seq.* This union has been certified by the Board as a collective bargaining representative in over 300 cases in each of which the Board determined that the appropriate unit within which the parties were required to bargain was a single employer unit or a subdivision thereof.

The necessary result of the decision below would be to require each union having a union-wide retirement and pension plan to bargain collectively with respect to such

plan within each separate bargaining unit. It is clear that in such bargaining either the plan would be presented by the union as an ultimatum, without offering any possibility of its being altered for application to the particular unit involved through the process of collective bargaining, or its uniformity would be completely destroyed as the result of such bargaining and the varying bargains reached in the respective units. In the first case, the result would be a refusal to bargain collectively, which would constitute an unfair labor practice under Section 8(b)(3) of the Act; in the second case, the union-wide plan would be destroyed.

Clearly, the interest of both employers and labor organizations in the collective bargaining requirement concerning union-wide plans makes the issue here presented one of great public importance that should be passed upon by this Court.

5.

Since the decision of the National Labor Relations Board in the instant case, other similar cases have been instituted before or have been decided by the Board, many of which will be reviewed in due course by various Courts of Appeals. In the interest of finality and uniformity of decision upon the important issue here presented it is submitted that the Court should grant the prayer of this petition.

II.

The Decision of the Court of Appeals Is in Conflict With the Decision of This Court in J. I. Case Co. v. Labor Board, 321 U. S. 332.

In the brief presented by the National Labor Relations Board to this Court in *J. I. Case Co.* v. *Labor Board,* 321 U. S. 332, the Board addressed itself to the proposition that it would be an unfair labor practice for an employer, after representatives had been designated by a majority, to negotiate with individuals or minority groups in their own behalf on the basic subjects of collective bargaining. The Board then stated (R. 214, 215):

> "A contemporaneous statement as to what would *not* be considered 'basic subjects of collective bargaining' is found in Twentieth Century Fund, Inc., *Labor and the Government,* New York (1935), pp. 229-230; '* * * an employer * * * may * * * confer with and deal with any individual or group over *matters* not covered by the collective agreement and *not part of wages, hours and basic working conditions—such as insurance, stock-purchase plans and social welfare.*'" (Italics ours.)

It is the view of the Board in the instant case that pensions fall within the general classification of welfare activities (Appendix to Respondent's Brief in Court of Appeals, p. 52, certified as part of the transcript before this Court, R. 403).

With respect to the question thus presented, as to the scope of the duty to bargain under the Act, the opinion of this Court in the *Case case* included the following (*loc. cit.,* p. 339):

> "It also is urged that such individual contracts may embody *matters that are not necessarily included within the statutory scope of collective bargaining,*

> *such as stock purchase, group insurance, hospitalization, or medical attention.* We know of nothing to prevent the employee's, because he is an employee, making any contract provided it is not inconsistent with a collective agreement or does not amount to or result from or is not part of an unfair labor practice." (Italics ours.)

It is clear from the context that the Court in the passage quoted was addressing itself to the right of an employer to deal with his employees with respect to certain matters on a direct and individual basis, even though there was in existence a majority representative having the exclusive right to bargain collectively for such employees under the Act. And the matters concerning which the employer is free to deal with his employees individually are, as stated by the Board, "matters * * * such as insurance, stock-purchase plans, and social welfare" (which latter includes pensions) and, as stated by this Court, "matters * * * such as stock purchase, group insurance, hospitalization, or medical attention."

The Court of Appeals acknowledged the effect of the quoted language of this Court in the *Case case*, stating in its opinion (R. 419) "* * * it must be conceded that the language furnishes some support for the Company's position, and if this case stood alone as the sole expression of the Supreme Court relative to the question before us it would at least cause us to hesitate."

The Court of Appeals then proceeded, however, to resolve its doubts on this score by reliance upon two conclusions: (1) that the quoted language in the *Case case* was not "an expression of the view of the Supreme Court upon the instant question" and (2) that the effect of that language "is at least offset by the Court's statement in the *United Mine Workers case*" (*United States* v. *Mine Workers*, 330 U. S. 258). These conclusions are erroneous, as will be briefly demonstrated.

(1) The Court in the *Case case* specifically directed its attention to the conditions under which employers had the right to deal individually with their employees. These, the Court found, fall into four categories: (1) situations in which there is no duty to bargain collectively on any subject—as when no representative has been authorized by a majority of employees within an appropriate unit; (2) situations where, despite negotiation in good faith, a collective contract has not been concluded; (3) situations where the collective contract expressly leaves certain areas open to individual bargaining; (4) situations where the matters involved are matters not included within the statutory scope of collective bargaining, such as stock purchase, group insurance, hospitalization, or medical attention.

It was plainly the purpose of the Court in the *Case case* to establish an inclusive definition of the circumstances under which the employer is free to contract individually with his employees and therefore is not subject to a charge of failure to bargain within the meaning of the statute. Such a definition was not only appropriate, but was actually required for the proper understanding and implementation of the mandate of the Court, which, in addition, was specifically limited by the Court in that case for the stated reason that "a party is entitled to a definition as exact as the circumstances permit of the acts which he can perform only on pain of contempt of court."

In view of the foregoing the court below was plainly in error in holding that the question here presented was not before this Court in the *Case case*. It clearly was before this Court, it was specifically tendered by the National Labor Relations Board itself as constituting one of several limitations upon the collective bargaining requirements of the Act, and it was so treated by this Court in its opinion in that cause.

(2) The court below was equally in error in holding

(R. 419) that "in * * * *United States* v. *United Mine Workers of America,* 330 U. S. 258, 286, 287, the court made a statement which indicates a view contrary to the Company's present position."

The issue here presented is whether the *compulsory* bargaining requirement of the National Labor Relations Act applies to retirement and pension plans. The statement of this Court in the *Mine Workers case* to which the Court of Appeals refers discloses only that collective bargaining had *voluntarily* gone forward between the Government and the Mine Workers, that the resultant contract included, *inter alia,* provision for a Welfare and Retirement Fund and a Medical and Hospital Fund, and that the provisions of the entire contract and its subsequent modifications "relate to matters which normally constitute the subject matter of collective bargaining between employer and employee." This is emphasized by the following passage from the Court's opinion (*loc. cit.,* p. 287):

> "It is descriptive of the situation to state that the Government, in order to maintain production and to accomplish the purposes of the seizure, has substituted itself for the private employer in dealing with those matters which *formerly were the subject of collective bargaining between the union and the operators.* * * *" (Italics ours.)

The right of employers and unions representing their employees *voluntarily* to enter into agreements concerning retirement and pension plans or policies is not here involved. The sole question presented is whether Congress made such plans or policies a subject of the *statutory compulsory* collective bargaining required by the National Labor Relations Act, and with respect to this issue the language of this Court in the *Mine Workers case* is not in point.

It is respectfully submitted that the Court of Appeals has misunderstood the effect of the decision of this Court

in *J. I. Case Co.* v. *Labor Board, supra,* that its decision is in conflict therewith, and that such conflict should be resolved in view of the great public importance of the issue here presented.

III.

The Decision of the Court of Appeals Is in Conflict With the Decision of This Court in H. J. Heinz Co. v. Labor Board, 311 U. S. 514, 525.

In *H. J. Heinz Co.* v. *Labor Board,* 311 U. S. 514, 525, this Court had before it a question as to the scope of the statutory requirement of collective bargaining under the Act. The basis of the Court's decision upon this issue was that Congress *had incorporated in the Act the collective bargaining requirement* of the Railway Labor Act, and of Section 7 (a) of the National Industrial Recovery Act, and the issue there presented was resolved by reference to the "settled practice" "in the bargaining process" "under the earlier acts."

The Court of Appeals, however, has held in the instant case that "a comparison of the language of the two acts shows that Congress in the instant legislation must have intended a bargaining provision of broader scope than that contemplated in the Railway Labor Act." This holding is clearly in conflict with the decision of this Court in the *Heinz case* that Congress had incorporated "in the new legislation the collective bargaining requirement of the earlier statutes." The existence of this direct conflict upon a question of such general public importance as the scope of the statutory duty to bargain we believe clearly warrants the exercise of this Court's discretion in granting the instant petition.

IV.

The Decision of the Court of Appeals Is in Conflict With Numerous Decisions of This Court Establishing Rules of Statutory Construction Which Are Controlling in This Case.

1.

The Court of Appeals has denied that the language of the Act must be read as it was originally understood by the legislature which used it, and in its contemporary setting, and its decision is therefore in conflict with numerous decisions of this Court, including *County of Schuyler* v. *Thomas,* 98 U. S. 169, *United States* v. *Stewart,* 311 U. S. 60, 64, and *Great Northern Ry. Co.* v. *U. S.,* 315 U. S. 262, 273.

The record is clear as to the "contemporary setting" in 1935 with respect to industrial retirement and pension plans. In that year there were in effect in this country over seven hundred employer-established plans, covering a total of something under 3,500,000 employees (R. 361). At the same time there were in existence an estimated 16,000 collective bargaining contracts, covering a union membership of 4,500,000 employees (R. 365, 366). Yet none of these 16,000 collective bargaining contracts dealt with such retirement and pension plans. Such plans were not regarded as a subject of collective bargaining at the time the Act was passed.

The court below does not deny these facts as to the contemporary setting of the statute, but attempts to avoid their effect by the following argument (R. 418):

> "* * * Such provisions, however, were being generally used at the time of the passage of the Amended Act in 1947. And we doubt the validity of the argument that the language of the latter Act cannot be

> given a broader scope even though Congress used the same phraseology. We do not believe that it was contemplated that the language of Section 9 (a) was to remain static."

There is no support in the record for the statement that "such provisions" (by which the court appears to mean provisions as to retirement and pension plans embraced in collective bargaining contracts) were being "generally used" at the time of the passage of the amended Act in 1947. The evidence is, in fact, directly to the contrary. The record shows such provisions as appearing in only one forty-second of one percent of the 50,000 collective bargaining contracts in effect in the United States in 1945. (Appendix to Respondent's Brief in Court of Appeals, pp. 58, 59, and R. 366.)

As noted above, the court then concludes that it was not "contemplated that the language of Sec. 9 (a) of the Act was to remain static," and in support of its conclusion quotes a passage from the opinion of this Court in *Weems* v. *United States,* 217 U. S. 349, 373, which expresses the undeniable proposition that general language of a statute is not necessarily confined "to the form that the evil had theretofore taken," but should apply equally to *new conditions* which arise with the passage of time.

A brief analysis will disclose that the quoted language from the *Weems case* has no application to the issue here presented. Company-wide industrial retirement and pension plans are not "new conditions" which have arisen since the passage of the Act. Such plans were already in existence in 1935, and had been in existence for many years theretofore (R. 361-364). Congress was aware of that fact, and was aware that they were not considered to be subjects of collective bargaining. Thus, the report of the Senate Committee on Education and Labor on the bill which became the Act stated categorically (R. 368):

"Nor does anything in the bill interfere with the freedom of employers to establish pension benefits" —with exceptions not here material. (Italics ours.)

2.

The Court of Appeals in the instant case has ignored the effect of the requirement of Section 9 (a) and (b) of the Act that collective bargaining in the statutory sense must be confined within units appropriate for the purposes of collective bargaining, which may be the employer unit, craft unit, plant unit, or subdivision thereof. The court in this respect has failed to observe the rule that the whole statute must be examined and all its provisions construed together, *Pollard* v. *Bailey,* 20 Wall. 520, 525, 526, so that inconsistencies may be avoided. *Lamp Chimney Co.* v. *Brass & Copper Co.,* 91 U. S. 656, 663; *United States* v. *Raynor,* 302 U. S. 540, 547; *U. S.* v. *Amer. Trucking Ass'ns.,* 310 U. S. 534, 542. And since in ultimate effect the decision of the court below will either render futile the collective bargaining mandate of the statute or, in the alternative, destroy the existing structure of retirement and pension plans in this country, it is in clear conflict with the settled rule that statutes must be construed so as to avoid an absurd result, or injustice or unnecessary hardship. *United States* v. *Kirby,* 7 Wall. 482, 486, 487; *United States* v. *Katz,* 271 U. S. 354, 357; *Burnet* v. *Guggenheim,* 288 U. S. 280, 285, 286; *Armstrong Co.* v. *Nu-Enamel Corp.,* 305 U. S. 315, 332, 333; *U. S.* v. *Amer. Trucking Ass'ns.,* 310 U. S. 534, 543.

WHEREFORE, petitioner respectfully prays that a writ of certiorari be issued, directed to the said United States Court of Appeals for the Seventh Circuit, commanding that court to certify and send to this Court a full and complete transcript of the record and proceedings in the cause numbered and entitled on its docket as No. 9612,

Inland Steel Company, Petitioner v. *National Labor Relations Board, Respondent,* to the end that this cause may be reviewed and determined by this Court; and that the decree thereof be reversed by this Court and such further relief be granted as to this Court may seem proper.

Respectfully submitted,

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